

### **REMARKS/ARGUMENTS**

Reconsideration of this application, as amended, is respectfully requested.

The specification has been amended to identify the internal flange on the raised portion of the cap as 44a to distinguish the same from the flange which has been identified as 44. It is proposed to amend Figures 3-5 to be consistent therewith.

The specification has also been amended to identify application Serial No. 10/073,951 which corresponds to Attorney Docket No. 6208/P67598US0 filed simultaneously with the instant application.

The Examiner has also suggested that reference character 36 has been used to designate both wire loops and an internal cavity; reference character 52 has been used to designate both a peripheral flange and an internal flange; and reference character 70 has been used to designate both fingers and pins. These objections are not understood. A full copy of the drawings filed with this application is submitted herewith from which the Examiner will note that reference character 36 has only been used to designate wire loops, reference character 52 has only been used to identify the peripheral or external flange, and reference character 70 has only been used to identify the fingers formed by the wire at the bottom of the cage element. Clarification of this requirement is therefore earnestly solicited.

Claim 1 has been rejected under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 5,111,772 (Lipton); claims 2-15 and 17 have been rejected under 35 U.S.C. §103(a) as unpatentable over Lipton in view of U.S. Patent No. 6,253,707 (Cote) and U.S. Patent No. 3,568,641 (Kilham); and claims 16, 18 and 19 have been rejected

under 35 U.S.C. §103(a) as unpatentable over Lipton, as modified by Cote and Kilham and further in view of U.S. Patent No. 6,067,934 (Harwich). Claims 1-4, 11-15 and 17-19 have been cancelled and new claims 20 and 21 have been added. Claims 5, 10 and 16 have been made dependent on new claim 20. It is respectfully submitted that claim 20, and all of the claims that depend therefrom, clearly and patentably distinguish over any combination of Lipton, Cote, Kilham and/or Harwich, as well as the remaining art made of record, but not applied against the claims.

Claim 20 clearly sets forth a novel construction of a bird feeder wherein the hopper can be readily removed from the housing to refill and clean the hopper without removing the hanger from its support. While Lipton broadly discloses a bird feeder having this facility, the Lipton construction is totally different, is more difficult to assemble and disassemble, and not as secure as the construction defined herein. The Cote, Kilham and Harwich patents fail to disclose or suggest products that would enable one skilled in the art to modify the Lipton product to render obvious the claimed construction as called for in 35 U.S.C. §103(a).

More specifically, claim 20 provides a unique and secure mechanism for affixing the hopper to the base, and a unique and secure mechanism for securing the cage to the base. In Lipton, the hopper is held in the base by a pair of spring fingers 9 and the base is secured to the cage via lugs 5 and hoops 6. Such a construction could be readily disassembled by squirrels or other unwarranted pests in an attempt to reach the peanuts carried by the hopper.

The Examiner suggests that Cote provides fastening members 282 to removably interconnect the bottom portions of his hopper 228 to the internal flange 260, 261 on base 216. The fastening members 282 are actually screws requiring external equipment, namely a screwdriver, to assemble or disassemble the bird feeder. The suggestion that the telescoping groove and pin arrangement of the claims herein are the functional equivalent to screws is simply inapt.

The arrangement in Harwich provides an inverted L-shaped slot 44, a portion of which extends generally vertically in use and the other portion of which is said to extend "horizontally". While this may be similar to the fastening means between the bottom of the hopper and the internal flange on the base of this invention, it is quite dissimilar to the fastening means between the bottom of the cage and the external flange on the base of this invention. In the latter instance, the grooves defined in the peripheral or external flange of the base each include a first part extending downwardly at an angle from an upper edge of the peripheral flange and a second part extending upwardly from the end of the first part, whereby the fingers on the cage can be slid downwardly along the first parts of the grooves and will slide upwardly into the second parts of the grooves under the influence of gravity pulling the base downwardly. No prior reference of record even remotely suggests such a construction.

Claim 21 adds the feature that the fingers at the bottom of the cage are actually extensions of the wire elements forming the cage itself. Certainly, nothing in the prior art would suggest this concept, either.

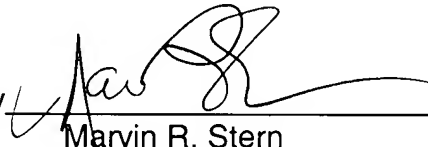
Appln. No. 10/074,032  
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Reply to Office Action dated 10/3/2003

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance and such action at an early date is earnestly solicited.

Respectfully submitted

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By

A handwritten signature in black ink, appearing to read 'Marvin R. Stern', is written over a horizontal line.

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